THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO: 20320 of 2006

Dated: 29-09-2006

Between:

M/s. Vasavi Communications Ltd.,
Rep., by its Executive Director, Mootha Gowtam,
Prem Nagar, Banjara Hills, Road No.1,
Hyderabad.

..... PETITIONER

AND

The Regional Provident Fund Commissioner,
Barkatpura, Hyderabad and two others.

.....RESPONDENTS

THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO: 20320 of 2006

O R D E R:

The 2nd respondent – Assistant Provident Fund Commissioner, Guntur, by order dated 6-11-2003 directed the petitioner to remit the amount determined therein towards the P.F. Arrears for the period from January, 2003 to September, 2003. Aggrieved by the said order passed under Section 7-A of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (for short, 'the Act'), the petitioner filed W.P.No.24506 of 2003 contending that the said order which was passed without notice to the petitioner was arbitrary and illegal. The said writ petition was disposed of by this Court by order dated 21-11-2003 granting liberty to the petitioner to move the Assistant Provident Fund Commissioner for setting aside the ex parte order within 10 days and ordered that until such application is decided the impugned order of assessment shall not be given effect to. It was also made clear that if the petitioner fails to file any application seeking set aside the ex parte order, the impugned order stands good.

Nothing has been placed before this Court to show that the petitioner made any such application. Subsequently, the 2nd respondent passed an order dated 26-2-2004 under Section 8-B of the Act directing the Recovery Officer to take immediate steps to recover the dues from the petitioner.

The petitioner does not dispute the above facts but alleged that while their request for allotting a Common Code Number for all its employees is pending, the respondent cannot take any coercive steps

for recovery of the amounts. It is pleaded that their account with the 3rd respondent Bank was frozen at the instance of the 2nd respondent and in spite of the requests made by them, the said prohibitory order has not been furnished. Hence, this writ petition with the following prayer :

> *"….. … to issue a Writ of Mandamus or any other appropriate writ, order or direction declaring that the impugned action of the 2nd respondent in not canceling the code No.AP/40170/GNT allotted to the petitioner company for braches within the jurisdiction of the 2nd respondent and consequently issuing proceedings of prohibitory orders to the 3rd respondent by declaring the petitioner company as defaulter after a lapse of two years of communicating the allotment of common employer code to all its employees as illegal, arbitrary and violative of principles of natural justice etc., an consequently direct the 2nd respondent to cancel the employer code No.AP/40170 allotted covering branches of the petitioner within the jurisdiction of the 2nd respondent as those employees were already covered under Common Code No.AP/HY/43988 allotted by the 1st respondent and grant such other relief or reliefs as this Hon'ble Court may deem fit and proper in the circumstances of the case."*

Sri R.N. Reddy, the learned Counsel who accepted notice for the respondents 1 and 2, under instructions, stated that in spite of the order of this Court in W.P.No.24506 of 2003, the petitioner did not make any application to set aside the assessment order dated 6-11-2003 and since the said order has become final a prohibitory order was passed long back on 24-2-2004 directing the 3rd respondent bank to withhold the amounts in the account of the petitioner and to remit the same in favour of the Regional Provident Fund Commissioner, Guntur. A copy of the said prohibitory order is placed before this Court.

Since nothing has been placed before this Court to show that any steps were taken by the petitioner questioning the order dated 6-11-2003 passed under Section 7-A of the Act, I am unable to find fault

with the respondents in issuing the prohibitory order dated 24-2-2004.

Even assuming that the request of the petitioner for issuance of Common Code Number is pending, since the order under Section 7-A of the Act, dated 6-11-2003 has attained finality, the action of the 2nd respondent in issuing the prohibitory order cannot be held to be arbitrary or illegal. Accordingly, the Writ Petition is dismissed. No costs.

G. ROHINI, J

Dated: 29-09-2006
KLP